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8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 TRINA OLSEN,

11 Plaintiff,

12 vs.

13 WASHOE COUNTY SCHOOL
DISTRICT, a political subdivision of the
14 State of Nevada; Washoe County School
District Superintendent TRACI DAVIS;
15 and DOES 1 through 10, inclusive,

16 Defendants.

Case No.: 3:19-cv-00665-MMD-WGC

**DEFENDANT WASHOE COUNTY
SCHOOL DISTRICT'S ANSWER
TO AMENDED VERIFIED
COMPLAINT**

17 Defendant WASHOE COUNTY SCHOOL DISTRICT ("Defendant" and/or
18 "WCSD"), by and through its counsel of record, DOTSON LAW, hereby answers the
19 First Amended Complaint by alleging and averring as follows:

20 **Arbitration Exemption**

21 1. Answering Paragraph 1, Answering Defendant denies that Plaintiff's
22 claims have a probable jury award in excess of fifty thousand dollars. Answering
23 Defendant admits that Plaintiff has filed a Motion for Preliminary Injunction and seeks
24 declaratory relief. To the extent this paragraph calls for further response, Answering
25 Defendant is without sufficient knowledge or information to form a belief as to the truth or
26 falsity of any additional allegations contained therein and therefore denies the same.

Jurisdiction and Venue

2. Answering Paragraph 2, Answering Defendant admits that the state court would have had jurisdiction over this matter notwithstanding the fact that it was appropriate to remove on the basis of federal question.

3. Answering Paragraph 3, (a) Answering Defendant admits that venue would have been appropriate in the state court in which the case was filed had it not been removed, and admits that venue is appropriate in the above-captioned court now that removal has been effectuated; (b) Answering Defendant admits this Court has personal jurisdiction over Plaintiff; (c) Answering Defendant admits this Court has personal jurisdiction over the WCSD; and (d) Answering Defendant admits Plaintiff was employed by Defendant WCSD in Washoe County.

Parties

4. Answering Paragraph 4, Answering Defendant admits the allegations contained therein.

5. Answering Paragraph 5, Answering Defendant admits the allegations contained therein.

6. Answering Paragraph 6, Answering Defendant admits the allegations contained therein.

7. Answering Paragraph 7, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the same.

8. Answering Paragraph 8, Answering Defendant asserts that no allegation against WCSD has been stated, and no response is required. To the extent a response is required, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of any allegations contained therein and therefore denies the same.

9. Answering Paragraph 9, Answering Defendant denies the allegations contained therein.

Allegations of Fact

10. Answering Paragraph 10, Answering Defendant admits the allegations contained therein.

11. Answering Paragraph 11, Answering Defendant admits the allegations contained therein.

12. Answering Paragraph 12, Answering Defendant admits the allegations contained therein.

13. Answering Paragraph 13, Answering Defendant admits the evaluations/observations took place as alleged therein, and further states that those documents speak for themselves.

14. Answering Paragraph 14, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the same.

15. Answering Paragraph 15, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the same.

16. Answering Paragraph 16, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the same.

17. Answering Paragraph 17, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the same.

18. Answering Paragraph 18, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein and therefore denies the same.

19. Answering Paragraph 19, Answering Defendant admits Plaintiff filed a staff complaint form against Lauren Ford and avers that the complaint speaks for itself.

1 20. Answering Paragraph 20, Answering Defendant denies the allegations
2 contained therein.

3 21. Answering Paragraph 21, Answering Defendant admits that Roger
4 Gonzalez authored a letter to Ms. Olsen dated June 28, 2018 and avers that the content of
5 that letter speaks for itself. Answering Defendant further admits that the letter was copied
6 to various WCSO employees and others, but denies that, on its face, it was copied to Ms.
7 Davis.

8 22. Answering Paragraph 22, Answering Defendant admits Olsen, through her
9 counsel, sent a letter dated July 6, 2018 to Traci Davis seeking arbitration. To the extent
10 any further response is required Answering Defendant state that it is without sufficient
11 information or knowledge with which to form a belief as to the truth or falsity of the
12 allegations contained therein, as the allegation is not comprehensible, and therefore denies
13 the same.

14 23. Answering Paragraph 23, Answering Defendant is without sufficient
15 knowledge or information to form a belief as to the truth or falsity of the allegations
16 contained therein and therefore denies the same.

17 24. Answering Paragraph 24, Answering Defendant admits Traci Davis sent a
18 letter dated July 27, 2018 and asserts that the content of the letter speaks for itself. As to
19 the remaining allegations stated therein, Answering Defendant is without sufficient
20 knowledge or information to form a belief as to the truth or falsity of the allegations
21 contained therein and therefore denies the same.

22 25. Answering Paragraph 25, Answering Defendant admits that the termination
23 was the subject of arbitration proceedings and that Arbitrator Andrea L. Dooley issued
24 what she called a "Decision and Award" dated December 13, 2018. Answering Defendant
25 further avers that the content of the "Decision and Award" speaks for itself. To the extent
26 any further response to this averment is required or called for, Answering Defendant states
27 that it is without sufficient information or knowledge with which to form a belief as to the
28 truth or falsity of the allegations contained therein, and therefore denies the same.

1 26. Answering Paragraph 26, Answering Defendant admits the allegations
2 contained therein, but denies that the phrasing utilized by the arbitrator is consistent with
3 Nevada law.

4 27. Answering Paragraph 27, Answering Defendant denies it has not made Ms.
5 Olsen whole, and denies that it was required as a matter of law to make Ms. Olsen whole
6 as purportedly required by the Arbitrator's Decision and Award. Answering Defendant
7 admits Plaintiff has filed a Motion for Preliminary Injunction. With respect to all other
8 allegations in Paragraph 27, Answering Defendant is without sufficient knowledge or
9 information to form a belief as to the truth or falsity of the allegations contained therein
10 and therefore denies the same.

11 28. Answering Paragraph 28, Answering Defendant objects to the same in so
12 far as it states legal conclusion as opposed to statement of fact. To the extent a response is
13 required Answering Defendant states that it is without sufficient information or knowledge
14 with which to form a belief as to the truth or falsity of the allegations contained therein,
15 and therefore denies the same.

16 29. Answering Paragraph 29, Answering Defendant denies the allegations
17 contained therein.

18 30. Answering Paragraph 30, Answering Defendant denies the allegations
19 contained therein.

20 **CLAIMS FOR RELIEF**

21 **42 U.S.C. 1983 – VIOLATION OF DUE PROCESS**

22 **(PROTECTED PROPERTY INTEREST)**

23 **(Against Defendant Davis)**

24 31. Answering Paragraph 31, Answering Defendant realleges and incorporates
25 by reference each and every answer contained in the preceding paragraphs as if set forth
26 fully herein.

27 32. Answering Paragraph 32, Answering Defendant states that it does not
28 believe the allegations are brought against it or have application to this Answering

1 Defendant. Answering Defendant also objects to this paragraph insofar as it states a legal
2 conclusion as opposed to a statement of fact. However, to the extent any such allegation
3 might be construed as having application to this Answering Defendant, Answering
4 Defendant states that it is without sufficient information or knowledge with which to form
5 a belief as to the truth or falsity of the allegations contained therein, and therefore denies
6 the same.

7 33. Answering Paragraph 33, Answering Defendant states that it does not
8 believe the allegations are brought against it or have application to this Answering
9 Defendant. Answering Defendant also objects to this paragraph insofar as it states a legal
10 conclusion as opposed to a statement of fact. However, to the extent any such allegation
11 might be construed as having application to this Answering Defendant, Answering
12 Defendant states that it is without sufficient information or knowledge with which to form
13 a belief as to the truth or falsity of the allegations contained therein, and therefore denies
14 the same.

15 34. Answering Paragraph 34, Answering Defendant states that it does not
16 believe the allegations are brought against it or have application to this Answering
17 Defendant. Answering Defendant also objects to this paragraph insofar as it states a legal
18 conclusion as opposed to a statement of fact. However, to the extent any such allegation
19 might be construed as having application to this Answering Defendant, Answering
20 Defendant states that it is without sufficient information or knowledge with which to form
21 a belief as to the truth or falsity of the allegations contained therein, and therefore denies
22 the same.

23 35. Answering Paragraph 35, Answering Defendant states that it does not
24 believe the allegations are brought against it or have application to this Answering
25 Defendant. However, to the extent any such allegation might be construed as having
26 application to this Answering Defendant, Answering Defendant denies the same.
27
28

1 36. Answering Paragraph 36, Answering Defendant admits Plaintiff requests
2 the relief set forth in her Prayer for Relief, but by this response does not concede such
3 relief should be granted.

4 **42 USC 1983 – MONELL CLAIM**

5 **(Against WCSD)**

6 37. Answering Paragraph 37, Answering Defendant realleges and incorporates
7 by reference each and every answer contained in the preceding paragraphs as if set forth
8 fully herein.

9 38. Answering Paragraph 38, Answering Defendant denies the allegations
10 contained therein.

11 39. Answering Paragraph 39, Answering Defendant admits Davis was the
12 officer with authority over personnel matters but denies the remaining allegations
13 contained therein.

14 40. Answering Paragraph 40, Answering denies the allegations contained
15 therein.

16 41. Answering Paragraph 41, Answering denies the allegations contained
17 therein.

18 42. Answering Paragraph 42, Answering denies the allegations contained
19 therein.

20 43. Answering Paragraph 43, Answering denies the allegations contained
21 therein.

22 44. Answering Paragraph 44, Answering denies the allegations contained
23 therein.

24 **VIOLATION OF DUE PROCESS – NEVADA CONSTITUTION**

25 **(Against All Defendants)**

26 45. Answering Paragraph 45, Answering Defendant realleges and incorporates
27 by reference each and every answer contained in the preceding paragraphs as if set forth
28 fully herein.

1 46. Answering Paragraph 46, Answering Defendant objects to the same in so
2 far as it states legal conclusion as opposed to statement of fact and thus no response is
3 required. Answering Defendant further avers that the legal authority cited therein speaks
4 for itself.

5 47. Answering Paragraph 47, Answering Defendant is without sufficient
6 knowledge or information to form a belief as to the truth or falsity of the allegations
7 contained therein and therefore denies the same.

8 48. Answering Paragraph 48, Answering Defendant objects to the same in so
9 far as it states legal conclusion as opposed to statement of fact and thus no response is
10 required. Answering Defendant further avers that the legal authority cited therein speaks
11 for itself. Answering Defendant denies that a violation of any of the cited authority
12 “caused damages to the Plaintiff.”

13 **TORTIOUS DISCHARGE IN VIOLATION OF PUBLIC POLICY**

14 **(Against All Defendants)**

15 49. Answering Paragraph 49, Answering Defendant realleges and incorporates
16 by reference each and every answer contained in the preceding paragraphs as if set forth
17 fully herein.

18 50. Answering Paragraph 50, Answering Defendant is without sufficient
19 knowledge or information to form a belief as to the truth or falsity of the allegations
20 contained therein and therefore denies the same.

21 51. Answering Paragraph 51, Answering Defendant is without sufficient
22 knowledge or information to form a belief as to the truth or falsity of the allegations
23 contained therein and therefore denies the same.

24 52. Answering Paragraph 52, Answering Defendant denies the allegations
25 contained therein.

26 53. Answering Paragraph 53, Answering Defendant denies the allegations
27 contained therein.

1 54. Answering Paragraph 54, Answering Defendant denies the allegations
2 contained therein.

3 **AFFIRMATIVE DEFENSES**

4 1. Plaintiff's Complaint on file herein fails to state a claim or cause of action
5 against Answering Defendants upon which relief can be granted.

6 2. Answering Defendant alleges that the Plaintiff has failed to mitigate her
7 damages, and to the extent of such failure of such mitigation, is precluded from recovery
8 herein.

9 3. Answering Defendants denies that Plaintiff has been damaged in any sum or
10 sums, or otherwise, or at all, by reason of any act or omission by Defendants.

11 4. Plaintiffs' Complaint fails to state a claim for recovery of attorney fees and
12 costs against each and every Defendant for any of his efforts in this Federal District Court
13 proceeding.

14 5. Answering Defendant alleges that Plaintiff's claim for punitive damages is
15 in violation of the Constitution of the United States and Amendments thereto.

16 6. Answering Defendant alleges that if any entitlement to punitive damages is
17 shown, which entitlement is specifically denied, such punitive damages must be assessed
18 in a manner bearing a rational relationship to Plaintiff's compensatory damages.

19 7. Answering Defendant alleges that the occurrence referred to in the
20 Complaint, and all injuries and damages, if any, resulting therefrom, were caused by the
21 acts or omissions of a third party over whom Answering Defendant had no control.

22 8. Defendant alleges that at all times material hereto it had reasonable cause to
23 engage in any actions taken with respect to Plaintiff.

24 9. Defendant alleges that plaintiff has failed to exhaust administrative and/or
25 contractual remedies.

26 10. Defendant was acting without malice and in good faith at all relevant times
27 and therefore enjoys good faith immunity from suit.

1 11. The acts of Answering Defendant were not the cause of the damages
2 claimed and Plaintiff lacks the ability to demonstrate a causal relationship between
3 Answering Defendants' alleged acts and her claimed damages.

4 12. There was no WCSD policy or practice that is related in any way to the
5 alleged deprivation of Plaintiff's constitutional rights.

6 13. The Complaint fails to state a federal civil rights claim against the
7 defendants under the doctrine announced in *Monell v. Department of Social Services*, 436
8 U.S. 658 (1978).

9 14. The State of Nevada has adopted a limited waiver of sovereign immunity as
10 codified in Chapter 41 of the Nevada Revised Statutes. Defendant WCSD is a political
11 subdivision of the State of Nevada. To the extent that the Complaint and causes of action
12 for violations of civil rights are based upon a theory of respondeat superior against
13 Defendant WCSD, Defendant WCSD is immune from liability because the claims for
14 relief averred in the Complaint pertain to the exercise or performance, or the failure to
15 exercise or perform, discretionary functions or duties on the part of WCSD and/or its
16 agents or employees. By reason of the premises and terms and provisions of NRS
17 41.032(2) no action may be brought against Defendant WCSD and legal recovery is
18 thereby barred.

19 15. The claims for relief averred in the Complaint pertain to conduct based
20 upon acts or omissions of employees or agents of Defendant WCSD exercising due care in
21 the execution of a statute, ordinance or other legal regulation. By reason of the premises
22 and the terms and provisions of NRS 41.032(1) no action may be brought against this
23 Defendant and any legal recovery is thereby barred.

24 16. Plaintiff's claims are barred by NRS 41.03475 as the alleged actions of
25 Defendant Traci Davis were outside the course and scope of her public duties.

26 17. Without admitting that the conduct attributed to the individually named
27 Defendants occurred, if it did, the acts and conduct complained of were not sanctioned,
28 condoned, ratified, or authorized by Defendant WCSD, do not constitute an official act of

1 Defendant WCSD, and are not reflective of an official policy or custom of Defendant
2 WCSD.

3 18. Pursuant to NRS 41.035, Plaintiff's recovery, if any, is limited in
4 accordance therewith.

5 19. Defendant alleges that Plaintiff consented to the matters referred to in the
6 Complaint.

7 20. Plaintiff is barred from recovering punitive damages under NRS 41.035.

8 21. Plaintiff is barred from recovering any special damages for failure to
9 specifically allege items of special damages claimed, pursuant to Rule 9(g) of the Federal
10 Rules of Civil Procedure.

11 22. This Defendant alleges that at all times relevant to the incidents referred to
12 in Plaintiff's Complaint, it acted in accordance with its legal obligations and duties under
13 law and regulation.

14 23. Pursuant to FRCP 11, to the extent discovery in this matter reveals
15 additional facts which support additional affirmative defenses, Answering Defendant
16 hereby reserves the right to amend this Answer and/or supplement it.

17 24. Answering Defendant hereby incorporates by reference those affirmative
18 defenses enumerated in Rule 8 of the Federal Rules of Civil Procedure as if fully set forth
19 herein. In the event further investigation or discovery reveals the applicability of any such
20 defenses, Answering Defendant reserves the right to seek leave of Court to amend this
21 Answer to specifically assert any such defense. Such defenses are herein incorporated by
22 reference for the specific purpose of not waiving any such affirmative defense.

23 WHEREFORE, Defendant prays for judgment as follows:

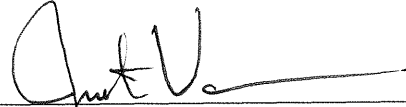
- 24 1. That Plaintiff's Complaint be dismissed with prejudice;
25 2. That Plaintiff take nothing from Defendant;
26 3. That Defendant recover attorneys' fees and costs of suit herein; and
27 4. For other relief as is just and proper.

Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED this 15th day of November, 2019.

DOTSON LAW



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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I hereby certify that I am an employee of DOTSON LAW
and that on this date I caused to be served a true and correct copy of the foregoing by:

- ☐ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At Dotson Law, mail placed in that designated area is given the correct amount of postage and is deposited that same date in the ordinary course of business, in a United States mailbox in the City of Reno, County of Washoe, Nevada.
- ☒ By electronic service by filing the foregoing with the Clerk of Court using the CM/ECF system, which will electronically mail the filing to the following individuals.
- ☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand delivered this date to the address(es) at the address(es) set forth below.
- ☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.
- ☒ Email.

addressed as follows:

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DATED this 15 day of November, 2019.


L. MORGAN BOGUMIL